

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMPANIA DEL BAJO CARONI (CAROMIN)
and V.M.C. MINING COMPANY, C.A.,

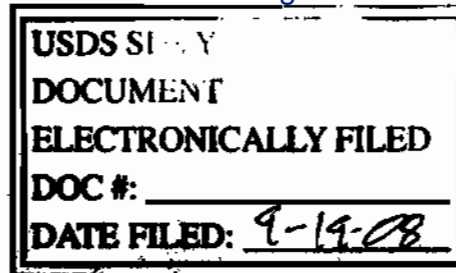
Plaintiffs,

- v -

BOLIVARIAN REPUBLIC OF VENEZUELA,
and MINISTRY OF BASIC INDUSTRIES
AND MINES,

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE



ORDER

07 Civ. 3179(NRB)

On April 30, 2008, we granted defendants' motion to dismiss for lack of subject-matter jurisdiction. Plaintiffs have appealed this decision to the Second Circuit, and now request that, pursuant to Federal Rule of Appellate Procedure 10(c), we approve defendants' notes taken during a conference on August 22, 2007 at which no court reporter was present so that those notes may be included in the record on appeal. Defendants argue that we should create a record of the August 22 conference using the Court's own notes, as well as defendants' notes. These requests are denied.

The Court's April 30, 2008 Memorandum and Order recapitulated the discussion during the August 22 conference to

the extent it was relevant to the motion to dismiss. The Memorandum and Opinion states:

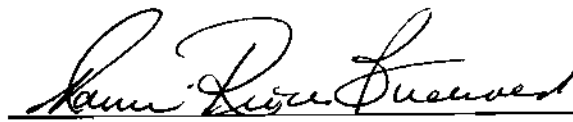
The existence of a disputed jurisdictional fact -- the authenticity of the duplicate Addendum attached as an exhibit to the complaint -- prompted the Court to schedule a conference on August 22, 2007 to discuss with the parties how best to proceed. At that conference, both parties indicated that they were prepared to support their accounts with further affidavits from witnesses with knowledge of the facts surrounding the execution of the waiver. Wary of imposing undue burdens on a sovereign that may prove to be immune from suit, we thought the most prudent course would be to direct the parties to supplement their submissions on the motion with expert reports, affidavits from the lay witnesses identified, and any other relevant documentary evidence deemed relevant to the instant controversy and then revisit the question of whether more intrusive jurisdictional discovery would be necessary to resolve the factual disputes presented by the motion.

(April 30, 2008 Memorandum & Order, at 20 n.39.)

Having already described the conference, we decline to attempt to supplement our summary more than one year after the fact, or to adopt the notes of one of the parties in lieu of that summary.

Defendant's request is therefore **DENIED**.

Dated: New York, New York
September 18, 2008

A handwritten signature in black ink, appearing to read "Naomi Reice Buchwald", is written over a horizontal line.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

Counsel for Plaintiffs:

Nathan Schwed, Esq.
Yoav M. Griver, Esq.
Zeichner Ellman & Krause LLP
575 Lexington Avenue
New York, NY 10022

Counsel for Defendants:

Kenneth S. Leonetti, Esq.
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210-2600

Geraldine R. Fischer, Esq.
Ronald E.M. Goodman, Esq.
Foley Hoag LLP
1875 K Street, NW
Washington, DC 20006